

Service Date: August 8, 2006

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF Qwest Corporation's) UTILITY DIVISION
Notification to Offer certain CLASS Features,)
AIN Features, Custom Calling Features,) DOCKET NO. D2006.3.39
Listings, and Packages as Not Regulated.)
) ORDER NO. 6736a

PROTECTIVE ORDER

On July 10, 2006, Qwest Corporation (Qwest) filed before the Public Service Commission (Commission) a motion for protective order to govern certain information expected to be provided to Montana Consumer Counsel. Qwest's Motion is proper in form, supported by an affidavit, and includes information as required by and in compliance with ARM 38.2.5007(3) through (4)(a)(iv).

In its Motion Qwest requests protection of information relating to:

1. Confidential Attachments B, C, D, and E, Data Request PSC-009:
 - B. Additional residence line counts, 2001-2005;
 - C. Access lines resold, 2001-2005;
 - D. UNE loops and UNE-P service counts, 2001-2005; and
 - E. Estimate of access lines lost to cable providers, 2001-2005;
2. Confidential Attachment A, Data Request MCC-002(b):
Costs of services proposed to be deregulated; and
3. Confidential Attachment B, Data Request MCC-010:
Cost manual.

Qwest argues that the identified information is trade secret entitled to protection pursuant to ARM 38.2.5007(4)(b), which provides:

- b) If the claimed basis for protection is trade secret, that:
 - (i) prior to requesting a protective order, the provider has considered that the commission is a public agency and that there is a constitutional presumption of access to documents and information in the commission's possession;
 - (ii) the claimed trade secret material is information;
 - (iii) the information is in fact secret;
 - (iv) the secret information is subject to efforts reasonable under the circumstances to maintain its secrecy;
 - (v) the secret information is not readily ascertainable by proper means; and
 - (vi) the information derives independent economic value from its secrecy, or that competitive advantage is derived from its secrecy.

In determining whether the identified information constitute trade secrets, the Commission examines (1) the extent to which the information is known outside of the third party's business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken to guard the secrecy of the information; (4) the value of the information to the business and its competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

The Commission finds that Qwest has shown good and sufficient cause in fact and law that the information described in Items 1, 2 and 3 -- Additional Residence Line Counts, 2001-2005 (Item 1.B); Access Lines Resold, 2001-2005 (Item 1.C); UNE Loops and UNE-P Service Counts, 2001-2005 (Item 1.D); Estimate of Access Lines Lost to Cable Providers, 2001-2005 (Item 1.E); Cost of Services Proposed to be Deregulated (Item 2); and the Cost Manual (Item 3) -- are entitled to protection from uncontrolled public disclosure pursuant to § 69-3-105(2), MCA, and as trade secret is defined at § 30-14-402(4), MCA. The Commission's finding is based on its acceptance of Qwest's information and arguments, as summarized in the following paragraphs:

Item 1.B

Qwest argues its Additional Residence Line Counts, 2001-2005 (Additional Line Counts) contain material that is entitled to protection as trade secret because the information satisfies the requirement of ARM 38.2.5007(4)(b).

Qwest further argues the material comprising its Additional Line Counts is information and secret; and 1) Additional Line Counts information is subject to efforts reasonable under the circumstances to maintain its secrecy (e.g., only certain employees of Qwest have access to the information); 2) Additional Line Counts information is not readily ascertainable by proper means (e.g., the information is not available from any public sources, and cannot be legally obtained from Qwest without an adequate showing of a legal mandate or need for appropriate use in Qwest's business); and 3) information contained in the Additional Line Counts derives independent economic value from its secrecy, or a competitive advantage is derived from its secrecy (i.e., if this information was available to Qwest's competitors, Qwest's competitors could target specific revenue streams and customer groups and could try to undercut Qwest in those particular areas); and 4) this information would give competitors insight into Qwest's internal processes.

Item 1.C

Qwest's argues its Counts of Access Lines Resold from 2001-2005 in Montana (Access Lines Resold) contain material that is entitled to protection as trade secret because the information satisfies the requirement of ARM 38.2.5007(4)(b).

Qwest further argues Access Lines Resold is information and secret; and 1) Access Lines Resold information is subject to efforts reasonable under the circumstances to maintain its secrecy (e.g., only certain employees of Qwest have access to the

information); 2) Access Lines Resold information is not readily ascertainable by proper means (e.g., the information is not available from any public sources, and cannot be legally obtained from Qwest without an adequate showing of a legal mandate or need for appropriate use in Qwest's business); and 3) information contained in the Access Lines Resold derives independent economic value from its secrecy, or a competitive advantage is derived from its secrecy (i.e., if this information was available to Qwest's competitors, Qwest's competitors could target specific revenue streams and customer groups and could try to undercut Qwest in those particular areas); and 4) this information would give competitors insight into Qwest's internal processes.

Item 1.D

Qwest argues its Report of UNE Loops and UNE-P Service Counts, 2001-2005 in Montana (Report) contains material that is entitled to protection as trade secret because the information satisfies the requirement of ARM 38.2.5007(4)(b).

Qwest further argues the Report is entitled to protection as trade secret because the material contained therein is information and secret, and 1) the Report is subject to efforts reasonable under the circumstances to maintain its secrecy (e.g., only certain employees of Qwest have access to the information); 2) information in the Report is not readily ascertainable by proper means (e.g., the information is not available from any public sources, and cannot be legally obtained from Qwest without an adequate showing of a legal mandate or need for appropriate use in Qwest's business); and 3) information contained in the Report derives independent economic value from its secrecy, or a competitive advantage is derived from its secrecy (i.e., if this information was available

to Qwest's competitors, Qwest's competitors could target specific revenue streams and customer groups and could try to undercut Qwest in those particular areas); and 5) also, this information would give competitors insight into Qwest's internal processes.

Item 1.E

Qwest's Estimate of Access Lines Lost to Cable Providers, 2001-2005 in Montana (Estimate) contains material that is entitled to protection as trade secret because the information satisfies the requirement of ARM 38.2.5007(4)(b).

Qwest further argues the material in the Estimate is information and secret; and 1) the Estimate is subject to efforts reasonable under the circumstances to maintain its secrecy (i.e., only certain employees of Qwest have access to the information); 2) the Estimate is not readily ascertainable by proper means (i.e., the information is not available from any public sources, and cannot be legally obtained from Qwest without an adequate showing of a legal mandate or need for appropriate use in Qwest's business); and 3) the information contained in the Estimate derives independent economic value from its secrecy, or a competitive advantage is derived from its secrecy (i.e., if this information was available to Qwest's competitors, Qwest's competitors could target specific revenue streams and customer groups and could try to undercut Qwest in those particular areas); and 4) also, this information would give competitors insight into Qwest's internal processes.

Item 2

Qwest's argues the calculation of the cost of services proposed to be deregulated

in Montana (Cost of Services) contains material that is entitled to protection as trade secret because the information satisfies the requirement of ARM 38.2.5007(4)(b).

Qwest further argues Cost of Services material is information and secret; and 1) Cost of Services is subject to efforts reasonable under the circumstances to maintain their secrecy (i.e., only certain employees of Qwest have access to the information); 2) Cost of Services is not readily ascertainable by proper means (i.e., the information is not available from any public sources, and cannot be legally obtained from Qwest without an adequate showing of a legal mandate or need for appropriate use in Qwest's business); and 3) information contained in Cost of Services derives independent economic value from its secrecy, or a competitive advantage is derived from its secrecy (i.e., if this information was available to Qwest's competitors, Qwest's competitors could target specific revenue streams and customer groups and could try to undercut Qwest in those particular areas); and 4) also, this information would give competitors insight into Qwest's internal processes.

Item 3

Qwest's argues its methodologies used to estimate service costs in Montana (Cost Manual) contains material that is entitled to protection as trade secret because the material satisfies the requirement of ARM 38.2.5007(4)(b).

Qwest further argues the Cost Manual is information and secret; and 1) the Cost Manual is subject to efforts reasonable under the circumstances to maintain its secrecy (i.e., only certain employees of Qwest have access to the information); 2) Cost Manual methodologies are not readily ascertainable by proper means (i.e., the methodologies are

not available from any public sources, and cannot be legally obtained from Qwest without an adequate showing of a legal mandate or need for appropriate use in Qwest's business); and 3) methodologies contained in the Cost of Manual derive independent economic value from their secrecy, or a competitive advantage is derived from their secrecy (i.e., if the methodologies were available to Qwest's competitors, Qwest's competitors could target specific revenue streams and customer groups and could try to undercut Qwest in those particular areas); and 4) also, this information would give competitors insight into Qwest's internal processes.

Order

THEREFORE, based upon the foregoing, it is ORDERED that:

1. Qwest Corporation's motion for a protective order covering Additional Residence Line Counts, 2001-2005 (Item 1.B); Access Lines Resold, 2001-2005 (Item 1.C); UNE Loops and UNE-P Service Counts, 2001-2005 (Item 1.D); Estimate of Access Lines Lost to Cable Providers, 2001-2005 (Item 1.E); Cost of Services Proposed to be Deregulated (Item 2); and the Cost Manual (Item 3) is GRANTED.

DONE AND DATED this 1st day of August, 2006, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

GREG JERGESON, Chairman

BRAD MOLNAR, Vice Chairman

DOUG MOOD, Commissioner

ROBERT H. RANEY, Commissioner

THOMAS J. SCHNEIDER, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.

Montana Public Service Commission
Protective Orders and Protection of Confidential Information

Nondisclosure Agreement

(7-26-00)

ARM 38.2.5012

Docket No. D2006.3.39, Order No. 6736a
Order Action Date: August 1, 2006

I understand that in my capacity as counsel or expert witness for a party to this proceeding before the commission, or as a person otherwise lawfully so entitled, I may be called upon to access, review, and analyze information which is protected as confidential information. I have reviewed ARM 38.2.5001 through 38.2.5030 (commission rules applicable to protection of confidential information) and protective orders governing the protected information that I am entitled to receive. I fully understand, and agree to comply with and be bound by, the terms and conditions thereof. I will neither use nor disclose confidential information except for lawful purposes in accordance with the governing protective order and ARM 38.2.5001 through 38.2.5030 so long as such information remains protected.

I understand that this nondisclosure agreement may be copied and distributed to any person having an interest in it and that it may be retained at the offices of the provider, commission, consumer counsel, any party and may be further and freely distributed.

Typed or Printed Name

Signature

Date of Signature

Business Address:

Employer

Party Represented